IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.6883 OF 2005

Ami Nishit Choksi and ors. ..Applicants.
Vs.
The State of Maharashtra and anr. ..Respondents.

Mr.A.H.H.Ponda for the Applicants.
Mr.M.K.Mazgaonkar for the Respondent No.2.
Mr.S.S.Pednekar, APP. for the State.

CORAM : R.S. MOHITE,J.
DATED : 22/3/2006.

P.C.

1. Heard both sides.

2. Rule. By consent, rule made returnable forthwith.

3. This petition has been filed for quashing of proceeding arising out of M.E.C.R.No.482 of the Cr.P.C. pending on the file of 40th Court at Girgaon, Mumbai. The case is filed pursuant to police report and after filing of the charge sheet, charge has been framed against the present applicants for offence punishable under Section 380, 120B rand 34 of the I.P.C.

4. The dispute is between the close family members.

The complainant who is respondent No.2 in the present case has filed an affidavit and the same discloses that the applicant No.1 is the daughter of his cousin sister, the applicant no.2 is the husband of applicant No.1 and applicant No.2 is the father of applicant No.1. The prosecution case as can be seen from the F.I.R. filed by respondent No.2 indicates that the respondent No.2 had a son who was ill. The applicant No.1 being the close relative represented that she will cure his son by superstition powers. The respondent No.2 was asked to keep his house and cupboard open and under the pretext of effecting such cure, ornaments worth Rs.15,45,231/- were stolen.

5. The applicant states that the elders in the family intervened in the matter and resulted in settlement between the parties.

6. Normally speaking, this court would not quash a proceeding involving serious offence notwithstanding the fact that the complainant states that the matter is settled. This is so because a criminal offence is normally an offence against the State. In this case as a special exception and particularly as the dispute is between the close family members as also for the reason that the A.P.P. states that the dispute

between the family members may be resolved, I am inclined to quash the proceeding. It may be stated that this order may not be treated as a precedent for quashing matters involving serious offences. On the last date of hearing, I had observed that the method of filing complaint, obtaining an order under Section 156(3), using the police machinery to commence and complete the investigation, thereafter settling the matter out of court and making an application for quashing of complaint, needs to be deprecated as it results in wastage of time of the court and the police officers. The applicants were also directed to deposit compensation of Rs.25,000/- which has been done. In the circumstances, the application is allowed in terms of prayer clause (a) and (c). The A.P.P. states that the amount of Rs.25,000/- may be paid over to the Police Welfare Fund. It is directed that the amount of Rs.25,000/- which has been deposited in this court may be paid to the Police Welfare Fund. Application is disposed off.

(R. S. MOHITE, J.)